

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THE CITY OF PHILADELPHIA BOARD OF
PENSIONS AND RETIREMENT, Derivatively on
Behalf of FIRSTENERGY CORP.,

Plaintiff,

v.

MICHAEL J. ANDERSON, STEVEN J. DEMETRIOU,
JULIA L. JOHNSON, CHARLES E. JONES, DONALD
T. MISHEFF, THOMAS N. MITCHELL, JAMES F.
O'NEIL, III, CHRISTOPHER D. PAPPAS, SANDRA
PIANALTO, LUIS A. REYES, LESLIE M. TURNER,
JAMES F. PEARSON, STEVEN E. STRAH, EBONY L.
YEBOAH-AMANKWAH, and K. JON TAYLOR,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No.:
2:20-cv-05529-ALM-KAJ

**THE CITY OF PHILADELPHIA BOARD OF PENSIONS
AND RETIREMENT'S MOTION FOR VOLUNTARY DISMISSAL**

The City of Philadelphia Board of Pensions and Retirement ("The City of Philadelphia" or "Plaintiff") hereby moves, pursuant to Federal Rule of Civil Procedure 41, for voluntary dismissal of this action without prejudice, and states as follows:

1. Plaintiff commenced this shareholder derivative action on October 21, 2020.

2. By order dated November 16, 2020, this Court consolidated all related derivative actions pending in this District brought on behalf of FirstEnergy Corp. and alleging substantially identical operative facts and violations of law. ECF No. 22.
3. Pursuant to Rule 41(a)(1)(A), “[s]ubject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment” No defendant has served an answer to Plaintiff’s Complaint, nor has any defendant filed a motion for summary judgment.
4. However, Rule 23.1 requires the Court to approve the voluntary dismissal of a derivative action. Rule 23.1(c).
5. The City of Philadelphia submits that it is appropriate to permit voluntary dismissal of this action without prejudice because this Court has appointed two other derivative plaintiffs, the Employees Retirement System of the City of St. Louis and Electrical Workers Pension Fund, Local 103, I.B.E.W., to serve as Lead Plaintiffs in the consolidated actions, which arise out of the same operative facts and which allege the same breaches of fiduciary duties and violations of federal securities laws. *See* ECF No. 22.
6. Thus, for the foregoing reasons, pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff respectfully requests that the Court dismiss this action in its entirety without prejudice.

Date: January 13, 2021

Respectfully submitted,

/s/ N. Zachary West

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***Attorneys for The City of Philadelphia Board of
Pensions and Retirement***

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2021, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court's CM/ECF system.

/s/N. Zachary West

***Attorney for The City of Philadelphia Board of
Pensions and Retirement***